

Attorney for Plaintiffs,
JEFFREY AND JENIFER SCHULKEN

[Additional counsel on signature page]

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

JEFFREY SCHULKEN AND JENIFER
SCHULKEN, individually and on
behalf of a class of similarly situated
individuals,

Plaintiffs,

v.

WASHINGTON MUTUAL BANK and
JPMORGAN CHASE BANK, N.A.

Defendants.

)
) Case No. C 5:09-cv-2708-LHK
)
)
) **DECLARATION OF ATTORNEY**
) **STEVEN WOODROW IN SUPPORT OF**
) **PLAINTIFFS' MOTION FOR CLASS**
) **CERTIFICATION**
)
) Judge Lucy Koh
)
) Hearing Date: July 21, 2011
) Hearing Time: 1:30 p.m.
) Courtroom: 4, 5th Floor
)

I, Steven L. Woodrow, hereby declare:

1. I am an attorney with the law firm of Edelson McGuire, LLC, counsel for the Plaintiffs, Jeffrey and Jenifer Schulken, in the above-captioned matter.

2. I am licensed to practice law in the State of Illinois and the State of Colorado. I have sought admission *pro hac vice* in the Northern District of California in this case and am one of the attorneys whose appointment as Class Counsel is sought.

3. I make this declaration in support of Plaintiffs' Motion and Memorandum of Law in Support of Class Certification. This declaration is based upon my personal knowledge and I could testify regarding the substance of this declaration if called upon to do so.

The Schulkens

4. My legal research has indicated that the Schulkens were the first Chase customers in the nation to file a putative class action lawsuit challenging JPMorgan Chase Bank N.A.'s 4506-T Income Verification Program. Chase blocked the Schulkens' HELOC in March 2009 claiming first that Chase was unable to verify the Schulkens' financial circumstances and, second, that the couple's financial circumstances had suffered an adverse material change.

5. During the course of the lawsuit, the Schulkens have answered all written discovery propounded by Chase. Furthermore, Chase's lawyers deposed each of the Plaintiffs for several hours, including numerous questions about their WaMu HELOC, their personal finances, their daycare business, and the lawsuit. The Schulkens have further produced over one thousand pages of financial records and are in the process of producing thousands of receipts they diligently kept dating back several years.

6. Furthermore, over the course of the past two years, my office and the Schulkens have kept in close communication with each other, with the Schulkens reviewing and assisting with pleadings, interrogatory responses, and other discovery. The Schulkens have also kept themselves informed of the lawsuit by maintaining a Pacer subscription and regularly checking the Pacer docket. The Schulkens have devoted significant time and energy to this case and, in our office's opinion, have served admirably as Plaintiffs, demonstrating both an interest as well as an understanding of the case.

7. As an investigation into the merits of the Schulkens' claims would ultimately show, the Schulkens' financial circumstances did not materially change in any adverse sense from the time they first obtained their WaMu HELOC in 2005. At the time of their account suspension in 2009, Chase calculated the Schulkens' monthly income as \$5,780 per month (derived from their 2008 business income plus Schedule C depreciation, as calculated by Mr. Goodspeed, the underwriter reviewing the Schulkens' account). A review of that same information from the Schulkens' tax records available at the time of account origination shows that Jenifer's income was \$19,589 (taken from their 2004 U.S. Individual Tax Return, Form 1040, Line 12 Business income (or loss)), that Jeff's income was \$53,382 (taken from their 2004 U.S. Individual Tax

1 Return, Form 1040, Line 7 Wages, salaries, tips, etc.), and that Schedule C depreciation was
 2 \$1,492 – equaling an annual income of \$74,463, or \$6,205 per month. As such, the Schulken's
 3 2009 monthly income evinced only a \$425 difference.

4 8. Using the \$6,205 figure, the Schulken's DTI only increased 2.2% (\$2,906.57 in
 5 monthly expenses in 2004 / monthly income of \$6,205 = 46.8% in 2004 compared to 49% in
 6 2008). Additionally, according to Chase's records, the Schulken's credit scores increased slightly
 7 from account origination and the couple maintained hundreds of thousands of dollars of equity in
 8 their home. (See Schulken HRLM Screen Print Out, Chase_00201-02, Ex Z.) Despite repeated
 9 requests by the Schulken's, Chase refused to reinstate their HELOC.

10 ***Edelson McGuire's Significant HELOC and Class Action Experience***

11 9. Edelson McGuire, LLC is well-suited to represent the proposed classes and
 12 subclasses. We regularly engage in major complex litigation on behalf of consumers and have
 13 extensive general experience in consumer class action lawsuits that large and complex like the
 14 present case. (See "Firm Resume of Edelson McGuire, LLC," a true and accurate copy of which
 15 is attached hereto as Ex. W.)

16 10. As explained in the attached Firm Resume, the lawyers of our firm have been
 17 appointed as class counsel in several complex consumer class actions. *See, e.g., Satterfield v.*
 18 *Simon & Schuster*, No. 06-cv-2893 CW (N.D. Cal.) (Co-lead counsel in class action settlement);
 19 *Lozano v. Twentieth Century Fox*, No. 09-CV-06344 (N.D. Ill.) (Lead counsel in consumer class
 20 action providing \$16 million in benefits to class under TCPA); *Weinstein et. al. v. Airt2me, Inc.*,
 21 No. 06-cv-0454 (N.D. Ill.) (Co-lead counsel in class action that settled for \$7 million); *Paluzzi v.*
 22 *Cellco Partnership*, No. 07 CH 37213, (Cook County, Ill.) (Lead counsel in class action involving
 23 27 related cases that settled for \$36 million relating to unauthorized charges for mobile content);
 24 *McFerren v. AT&T Mobility, LLC*, No. 08-cv-151322 (Fulton County, Sup. Ct., GA) (lead
 25 counsel in class action involving 16 related cases with "no cap" settlement).

26 11. Our firm's lawyers are also the leading attorneys in the nation with respect to
 27 when financial institutions like Chase may suspend or reduce HELOCs under TILA, Regulation Z
 28 and the banks' HELOC contracts. Jay Edelson was appointed interim co-lead class counsel in the

1 Chase HELOC multidistrict litigation focusing on Chase's PVD strategy and use of AVMs, *see In*
2 *re JPMorgan Chase Bank, N.A. Home Equity Line of Credit Litigation*, Master Docket Case No.
3 10-cv-3647, MDL 2167 (N.D. Ill), and Edelson McGuire was appointed interim co-lead counsel
4 in the litigation challenging Citibank's HELOC suspension practices. *In re Citibank HELOC*
5 *Reduction Litigation*, Case No. C 09-0350-MMC (N.D. Cal.) (Dkt. 96.)

6 12. Additionally, our team has prosecuted similar claims against other industry actors,
7 including Wells Fargo Bank, N.A., (*See e.g. Hickman v. Wells Fargo Bank N.A.*, 683 F. Supp. 2d
8 779 (N.D. Ill. 2010)), National City Bank (*Raeth v. National City Bank*, 09-cv-2812 JPM (W.D.
9 Tenn.)) and GMAC Mortgage (*Sutcliffe v. GMAC Mortgage*, C10-0138JL. (N.D. Cal.))

10 13. Our lawyers also took the lead in responding to the Federal Reserve Board of
11 Governor's request for public comment on proposed changes to Regulation Z's HELOC
12 suspension rules. (*See Resp. to Fed. Res. Bd. of Gov. Proposed Rule Changes to Regulation Z*, a
13 true and accurate copy of which is attached hereto as Ex. X.)

14 ***Additional Potential Class Representatives***

15 14. Since the filing of this matter, our office has spoken with dozens of potential class
16 and subclass members. In addition to the Schulkens, we have been retained by both an
17 Incomplete Responder as well as a Non-Responder who Chase processed through its 4506-T
18 Program. Both of these individuals appear to have had HELOC contracts similar in substance to
19 the Schulken's HELOC contract and neither of them used their HELOCs for any business
20 purpose. Both are also current Chase HELOC customers, despite the fact that their respective
21 HELOCs remain suspended at present. Also, both of these customers' HELOCs are secured by
22 their homes in California. These HELOC customers have expressed a willingness to serve as the
23 named class representatives in the event this Court finds the Schulkens unable to adequately
24 represent any of the classes or subclasses or otherwise determines that additional representatives
25 are necessary for the prudent prosecution of this matter.

26 ***Exhibits***

27 15. Attached as Group Exhibit A is a true and accurate copy of portions of HELOC
28 contracts produced by Chase as bates Chase_02568, 02574, 02578, 02584, 02587, 02592, 02421,

1 02424, 02434, 02436, 02409, 02412, 02427, 02432, 02463, 02470, 03432, 03437, 02368, 02369,
2 02370, 02371, 02513 - 02519, 02474 - 02480.

3 16. Attached as Exhibit B are true and accurate copies of excerpts from the Deposition
4 of Mr. Charles Pursh, Chase's 30(b)(6) deposition witness.

5 17. Attached as Exhibit C are true and accurate copies of excerpts from the Deposition
6 of Robert Resh, the manager directly below Mr. Pursh in charge of the 4506-T Program.

7 18. Attached as Exhibit D is a true and accurate copy of relevant pages from the
8 March 2011 Line Management Summary that Chase produced as bates Chase_04734-36.

9 19. Attached as Exhibit E is a true and accurate copy of relevant pages from the
10 February 2011 Executive Summary that Chase produced as bates Chase_04876, 04879, 04899,
11 and 04900.

12 20 Attached as Exhibit F is a true and accurate copy of the November 2008
13 Integration Update, produced by Chase as bates Chase_04288.

14 21. Attached as Exhibit G is a true and accurate copy of the "December 12, 2008
15 Change in Financial Condition 4506-T Block Program Credit Line Review" document produced
16 by Chase as bates Chase_02118-40.

17 22. Attached as Exhibit H is a true and accurate copy of Chase's HELOC Income
18 Verification Line Management Action policy documents dated March 29, 2010 and October 5,
19 2010, produced by Chase as bates Chase_00343-46.

20 23. Attached as Exhibit I is a true and accurate copy of the Income Verification Letter
21 that Chase first sent to the Schulkens, produced by Chase as bates Chase_00152-53.

22 24. Attached as Exhibit J is a true and accurate copy of Chase's Home Equity High
23 Risk Line Management - 4506-T Process Summary that Chase produced as bates Chase_00351-
24 53.

25 25. Attached as Exhibit K is a true and accurate copy the report of Plaintiffs' expert
26 witness, Mr. Richard George.

27 26. Attached as Exhibit L is a true and accurate copy of relevant pages from the March
28 2009 Line Management Summary that Chase produced as bates Chase_04565.

1 27. Attached as Exhibit M is a true and accurate copy of relevant pages from the
2 January 2011 Line Management Report that Chase produced as bates Chase_02090_A – 2091_A.

3 28. Attached as Exhibit N is a true and accurate copy of Chase's Answers and
4 Objections to Plaintiffs' Third Set of Interrogatories.

5 29. Attached as Group Exhibit O are true and accurate copies of a the Letter
6 Agreement of May 9, 2011 entered into by the Parties, through their respective counsel, regarding
7 sampling, numerosity, and other issues relevant to Plaintiffs' Motion to Compel. Included in the
8 Group Exhibit are true and accurate copies of the May 27, 2011 and May 28, 2011 emails from
9 attorney Michael Salemi, one of Chase's lawyers in this case, regarding Chase's stipulation of
10 numerosity for defined classes of HELOC customers.

11 30. Attached as Exhibit P is a true and accurate copy of relevant pages from the April
12 2009 Line Management Summary that Chase produced as bates Chase_00670.

13 31. Attached as Exhibit Q are true and accurate copies of excerpts from the Deposition
14 of Jeff Schulken.

15 32. Attached as Exhibit R are true and accurate copies of excerpts from the Deposition
16 of Jenifer Schulken.

17 33. Attached as Exhibit S is a true and accurate copy of the Schulken's Answers and
18 Objections to Chase's First Set of Interrogatories.

19 34. Attached as Exhibit T is a true and accurate copy of the March 18, 2009
20 Incomplete Responder Letter that Chase sent to the Schulken's produced by Chase as bates
21 Chase_00156-57.

22 35. Attached as Exhibit U is a true and accurate copy of the March 27, 2009
23 Suspension Letter that Chase sent to the Schulken's produced by Chase as bates Chase_00158-59.

24 36. Attached as Exhibit V is a true and accurate copy of the Schulken's WaMu
25 Comment Summary, produced by Chase as bates Chase_00111-00124.

26 37. Attached as Exhibit W is a true and accurate copy of the Firm Resume of Edelson
27 McGuire, LLC.

Executed this 1st day of June 2011 in Denver, Colorado.

Declaration of Attorney S. Woodrow in Support Of Motion for Class Certification
Case No. C09-cv-2708-LHK

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2011, I electronically filed the foregoing *Declaration of Attorney Steven Woodrow in Support of Plaintiffs' Motion for Class Certification* with the Clerk of the Court using the CM/ECF system. Notice of this filing is sent to the following counsel of record by operation of the Court's electronic filing system:

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/s/ Sean P. Reis
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